App. F. IX-4

*Previous References*

1938.
(Eyes)

File No. 23/38
Serial Nos. 1-4.

*Letter References*

PRESERVED

24

# GENERAL AND REVENUE SECRETARIAT.

*Serial Nos.* Four only

**Part B for** April, 1939.

**SUBJECT.**

Repeal of the Criminal Tribes Act.

---

864) To The Secretary, The Provincial Criminal Tribes prevention, Vellore

WD 0295—GPB—22,500—13-8-37

No. p 5696 of 27.4.39.

Memo - Copy of ... explaining the position of the Criminal Tribes ...

Inward No. 5 28/4/39

Serial No.

Memorandum dt 25/12/38 from Secy Provincial Cttee. Queries asked pertain to repeal of Criminal Tribes Act Drivers under them.

Sr Chief Secy

1) I have promised to have a note sent to him telling him what the position is in regard to these tribes in our State. I told him that I did not remember a single case of transportation under this Act"

Instr accordingly
30/12

2) Submitted with a draft to Govt for [illegible] in general repeal circular
31/12/38. Chief Secy)

hg 31/12

3) MS 31.12.39

4) Circular hg 4.1

Issued letter no P3629 dated 8th Jany 1939 to the D. C's of Police

Sus H 9.1.39.

CHIEF SECRETARY. 3 JAN 1939 GOVT. OF MYSORE.

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-83

Repeal of Criminal Tribes Act.

File No. 6897 of 193 .

General and Revenue Secretariat

DEWAN'S OFFICE
5 APR. 1939
No. 7253

APR 4 1939
8041

Issued Reminder P 4525 dt 22.2.39 to the I.G.P.

From

The I. G. of Police

letter no C 1023/38-39/C.I.D dated 30-3-1939 sending a note explaining the position of the Criminal Tribes in the State.

5) Submitted for orders. If approved a copy of the note will be sent to the Secretary, Provincial Criminal Tribes Association Vellore as per orders of the Dewan on the P.W.D. Memorandum.

The I. G. is of opinion that it is neither necessary nor desirable to Repeal or amend the C.T. Act. He has also stated that there has been not even a single case of transportation under S 24 of the C. T. Act.

flag A

Chief Secy
3-4-39
VRM

6) For perusal.

1st member + Dewan

3.4

MK 3/4

7) 4.4

Nil 5/4/39

8) 5-4-39

MK 6/4

7.4

3 APR 1939 GOVT. OF MYSORE

Repeal of Criminal Tribes Act

General and Revenue Secretariat | File No. | of 193 | [App. F. III—2

| Serial No. | |
|---|---|
| 5 | a draft letter to the Secretary Provincial Criminal Tribes Association Delhi, is submitted. 17.4. Chief Secy 18 Appd. 18.4. 1914 issue WD 19.4 |
| | Issued P 5691 d 27.4.39 |
| B 27.4. | |

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-83

Re 1371

Repeal of the Criminal Tribes Act.

To

The Honourable The ~~Minister~~ Dewan
Mysore Mysore State
Government of Madras, Madras.

Honoured Sir,

The following memorandum is presented on behalfof the Provincial Criminal Tribes Association, Nellore:

1. Repeal of Amendment?

(1) As the Criminal Tribes Act was originally conceived at a time when conditions in the country were insecure and when nomadic and marauding hoardes of people used to travel from one portion to another it was considered necessary in 1871 that an Act like this should be introduced to control the movements of these Tribes. As circumstances changed, the Act came to be suitably amended in 1911, 1924, 1927. Our present case is that circumstances have sufficiently undergone a change so as to warrant a reppal of the Act in entirety. Rightly was the attention of the Faizpur Congress drawn towards this change that it considered the Criminal Tribes Act a menace to peaceful citizens and consequently to the preservation of their civil liberties. Our Association has succeeded in focussing the attention of several lead-

ing men of our country and has been able to get the Act condemned by eminent Judges of the Madras High Court including Sir. M. Venkatasubba Rao who remarked in a speech on 12-5-1938 that 'this Law offends the conscience of progressing India and ... disfigures our Statute Book.' Pandit Jawahralal called it a monstrous Act, and the Hon'ble Mr. T. Prakasam Pantulu opined in 1935 that the Act was being 'administered in a monstrous way.' Dewan Bahadur V. Bhasyam Aiyangar strongly condemned the Act once on 31-3-1938 and another time in the beginning of 1938 that the Act and its provisions are so 'galling and capable of somuch misuse that they require to be modified at an early date.'

(2) The existing Law is otherwise sufficient to tackle the problems arising out of the control of Criminal Tribes. Section 109, Criminal Procedure Code, provides for punishing those (a) taking precautions to conceal their presence with a view to committing offences, (b) having no ostensible means of subsistence, and (c) unable to give a satisfactory account of themselves. The punishment can be for year's imprisonment.

Section 110, Criminal Procedure Code, punishes with an imprisonment not exceeding 3 years habitual robbers, house-breakers, thieves, forgers, and receivers of stolen properties. It also brings

to book those habitual protecting or harbouring the aforesaid men and also those that commit offences of kidnapping, abduction, extortion, cheating, mischief, breach of the peace, and those desperate and dangerous to the security of the community. In view of these provisions, the Act may be totally repealed.

(3) If necessary, a separate Act may be made to punish incorrgible old offenders in a regular judicial proceeding.

(4) Colonisation in regular colonies of these Tribes as well as finding them suitable occupation are the best means of reclaiming them to Society. The present policy of punishment borders upon revenge rather than on rectification or prevention, with the result that each conviction produces a more - hardened criminal.

(5) If desirable, the Act may be confined only to nomadic Tribes with a view to change their nomadic habits.as well as provide against their criminal tendencies.

(6) In any event, application of the Act to tribes as a whole is opposed to all judicial principles.

II. If amendment is the only alternative, the association suggests the following changes to the Sections as well as the rules made by the Madras Govern-

ment under Section 20 of the Act.

(1) Application: The Act must not be applied to: (a) Political offenders as is done in Bengal,

(b) Public workers;

(c) Women;

(d) Minors below 18;

(e) Old men above 50;

(f) Old offenders with previous convictions under I.P.C.

(g) Tribes as a whole or part of tribes or gangs;

(h) Must not be applied for more than two years at a stretch. On the whole, no one to be under the Act more than 8 years on the aggregate.

(i) to those convicted of security sections viz. 106, 109 and 110.

(j) Not to be ~~applied~~ enforced if security is furnished for the period in question.

(2) Operation:

(a) Registration must not be an executive act, must be made a judicial act applied by a court of law;

(b) must be appelable to the Sessions Court;

(c) must be based on trial by a Sub-Divisional Magistrate with right of defence and access to case dairies;

(d) Sections 23, 24, 27 and 29 of the Act to be totally repealed;

(e) Maximums of punishment described by Sec. 22 to be reduced to one-fourth of what they are now. Fines to be alternative in clause (1) of Section 22;

(f) Right of appeal even for forced residence in settlements and reformatories as above in cases of other C.T.Ms.

(g) Sections 11, 12, 13 and 19 to be modified to prevent removal of criminals from their own Province to another. As far as possible, they should be kept in their usual surroundings.

(h) Section 10, (1) (a) of the Criminal Tribes Act to be deleted altogether. Inspection at the residence of the C.T.M. to be provided as authorised under Rule 21. Section 10 (1) (b) should be amended so as torequire reporting of only permanent change of residence.

Passes ought not to be insisted upon from Village Munsifs and Police Officers only. Other Revenue Officials, Co-operative, Educational, Medical and Judicial Staff including Presidents of Village Panchayats and Panchayat Courts to be authorised to issue passes;

(i) Rule 10 of the Kavali Settlement regarding restraint on marriages to be removed.

It is no longer necessary to impress upon any Government and particularly so on a Congress Government that the Criminal Tribes Act is too undesirable

to continue a moment longer. Cases are getting too frequent when unfortunate members of the - criminal tribes are subjected to transportation for life as the minimum punishment due to them for committing for the third time even offences of a trivial nature involving even ridiculously low amounts of theft etc. This is the law laid down by Section 3, C.T.Act. No Government would care to justify it in these civilised times.

3. The Association, therefore, requests that legilsation may be hastened to undo the mischief done by the Act.

I beg to remain,
Honoured Sir,
Your most obedient servant,

V Raghaiah
Secretary, Provincia
Criminal Tribes Association, Nellore.

Nellore,
25th Dec. '38.

V. Raghaiah
Nellore

## Repeal of the Criminal Tribes Act.

To

The Honourable the Dewan,
Government of Mysore, Mysore State.

Honoured Sir,

The following memorandum is presented on behalf of the Provincial Criminal Tribes Association, Nellore:

1. Repeal of Amendment?

(1) As the Criminal Tribes Act was originally conceived at a time when conditions in the country were insecure and when nomadic and marauding hoardes of people used to travel from one portion to another it was considered necessary in 1871 that an Act like this should be introduced to control the movements of these Tribes. As circumstances changed, the Act came to be suitably amended in 1911, 1924, 1927. Our present case is that circumstances have sufficiently undergone a change so as to warrant a repeal of the Act in entirety. Rightly was the attention of the Faizpur Congress drawn towards this change that it considered the Criminal Tribes Act a menace to peaceful citizens and consequently to the preservation of their civil liberties. Our Association has succeeded in focussing the attention of several leading men of our country and has been able to get the Act condemned by eminent Judges of the Madras High court including Sir M. Venkatasubba Rao who remarked in a speech on 12-5-1938 that 'this Law offends the conscience of progressing India and ... disfigures our Statute Book'. Pandit Jawaharlal called it a monstrous Act, and the Hon'ble Mr. T. Prakasam Pantulu opined in 1935 that the Act was being 'administered in a monstrous way.' Dewan Bahadur V. Bhasyam Aiyangar strongly condemned the Act once on 31-3-1938 and another time in the beginning of 1938 that the Act and its provisions are so 'galling and capable of somuch misuse that they require to be modified at an early date.

(2) The existing Law is otherwise sufficient to tackle the problems arising out of the control of Criminal Tribes. Section 109, Criminal Procedure Code, provides for punishing those (a) taking precautions to conceal their presence with a view to

commiting offences, (b) having no ostensible means of subsistence, and (c) unable to give a satisfactory account of themselves. The punishment can be for year's imprisonment.

Section 110, Criminal Procedure Code, punishes with an imprisonment not exceeding 3 years habitual robbers, house-breakers, thieves, forgers, and receivers of stolen properties. It also brings to book those habitual protecting or harbouring the aforesaid men and also those that commit offences of kid-napping, abduction, extortion, cheating, mischief, breach of the peace, and those desperate and dangerous to the security of the community. In view of these provisions, the Act may be totally repealed.

(3) If necessary, a separate Act may be made to punish incorrigible old offenders in a regular judicial proceeding.

(4) Colonisation in regular colonies of these Tribes as well as finding them suitable occupation are the best means of reclaiming them to Society. The present policy of punishment borders upon revenge rather than on rectification or prevention, with the result that each conviction produces a more hardened criminal.

(5) If desirable, the Act may be confined only to nomadic Tribes with a view to change their nomadic habits, as well as provide against their criminal tendencies.

(6) In any event, application of the Act to tribes as a whole is opposed to all judicial principles.

II. If amendment is the only alternative, the association suggests the following changes to the Sections as well as the rules made by the Madras Government under Section 20 of the Act.

(1) <u>Application</u>: The Act must not be applied to : (a) Political offenders as is done in Bengal,

(b) Public workers;

(c) Women;

(d) Minors below 18;

(e) Old men above 50;

(f) Old offenders with previous convictions under I.P.C.

(g) Tribes as a whole or part of tribes or gangs;

(h) Must not be applied for more than two years at a stretch. On the whole, no one to be under the Act more than 8 years on the aggregate.

(i) to those convicted of security sections viz., 106, 109 and 110.

(j) Not to be enforced if security is furnished for the period in question.

(2) Operation:

(a) Registration must not be an executive act, must be made a judicial act applied by a court of law;

(b) must be appealable to the Sessions Court;

(c) must be based on trial by a Sub-Divisional Magistrate with right of defence and access to case dairies;

(d) Sections 23, 24, 27, and 29 of the Act to be totally repealed;

(e) Maximums of punishment described by Section 22 to be reduced to one-fourth of what they are now. Fines to be alternative in clause (1) of Section 22;

(f) Right of appeal even for forced residence in settlements and reformatories as above in cases of other C.T.Ms.

(g) Sections, 11, 12, 13 and 19 to be modified to prevent removal of criminals from their own Province to another. As far as possible, they should be kept in their usual surroundings.

(h) Section 10, (1) (a) of the Criminal Tribes Act to be deleted altogether. Inspection at the residence of the C.T.M. to be provided as authorised under Rule 21. Section 10 (1) (b) should be amended so as to require reporting of only permanent change of residence.

Passes ought not to be insisted upon from Village Munsiffs and Police Officers only. Other Revenue Officials, Co-operative, Educational, Medical and Judicial Staff including Presidents of Village Panchayats and Panchayet Courts to be authorised to issue passes;

(i) Rule 10 of the Kavali Settlement regarding restraint on marriages to be removed.

It is no longer necessary to impress upon any Government and particularly so on a Congress Government that the Criminal Tribes Act is too undesirable to continue a moment longer. Cases are getting too frequent when unfortunate members of the criminal tribes are subjected to transportation for life as the minimum punishment due to them for commiting for the third time even offences of a trivial nature involving even riduculously low amount of theft etc., This is the law laid down by Section 3, C.T. Act. No Government would dare to justify it in these civilised times.

3. The Association, therefore, requests that legislation may be hastened to undo the mischief done by the Act.

I beg to remain,
Honoured Sir,
Your most obedient servant,

Sd/- V. Raghaviah,

Secretary, Provincial
Criminal Tribes Association,
Nellore.

" Copy"

Appendix F G—1]

SUBJECT .....

.....

.....

*Diary No. of letter replied to*.....

General and Revenue Secretariat

( )

*the* *193*

Date of issue..... 8/1/29 Typed

Signed by ..... Mr. A.S.R.

List of enclosures.....

Copied by .....

Examined by.....

**Section** Legis

**File No.** 23-38

**Serial No.** 2

No. P 3629/Secl

To

The D. G of Police.

Sir,

I am directed to forward herewith copy of a memorandum received from the Legal Provincial criminal Tribes Assocn., drawing the repeal of the criminal Tribes Act and to request you to forward to this office a note explaining the position in regard to these Tribes in

13

regard the State, I am
also to request you
to furnish information
as to the way, if any
in which the conduct
of this participation
for this I has been
imposed under the Act

I have etc

hd/ 31.12

For Chief Secy.

Sy

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

*Dated, Bangalore,* 7th January 1939.

No. P 3629/Genl 1

From

*The Chief Secretary to the Government of His Highness,*
*the Maharaja of Mysore.*

To

The Inspector-General of Police in Mysore,
Bangalore.

Sir,

I am directed to forward herewith copy of a memorandum received from the Secretary, Provincial Criminal Tribes Association Nellore urging the repeal of the Criminal Tribes Act and to request you to forward to this office a note explaining the position in regard to these tribes in the State, I am also to request you to furnish information as to the number of cases in which the sentence of transportation for life has been imposed under this Act.

I have the honour to be,

Sir,

Your most obedient servant,

For Chief Secretary to Government.

jgn/2.

D.O. No. C.1023/38-39/C.I.D. Encl: one.

F. A. HAMILTON, Esq., C.I.E.,
Inspector-General of Police
in Mysore.

6093

31. MAR. 1939

BANGALORE

March 30, 193 9.

Pol. Affrs. Dept. 3073/38-3 Typs 23-38-3

Dear Mr. Kesavaiengar,

With reference to your letter No. P.3629 dated the 8th January 1939, I am sending herewith a Note explaining the position in regard to the Criminal Tribes in the Mysore State, for the information of Government.

Yours sincerely,

F. A. Hamilton

Rajasevaprasakta
B.T. Kesavaiengar, Esq., B.A.,
Chief Secretary to the Government of Mysore,
Bangalore.

# A NOTE EXPLAINING THE POSITION OF THE CRIMINAL TRIBES IN MYSORE.

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The spirit of the Criminal Tribes Act in its scope and application is entirely preventive and not punitive. Its preventive aim is sought to be effected under the Act by a progressive scheme of a series of provisions by which persons of well known criminal propensities are first declared to be a criminal tribe or class and are then required to register their names and marks of identification with the Magistracy and are next required to report themselves periodically and notify their changes of residence etc.

The Act is not made applicable in an executive manner or indiscriminately to all classes of persons. The main principle recognised by the relevant provision viz. Sec. 3 of the Act which lays down that only those who are reasonably believed "to be addicted to the systematic commission of non-bailable offences" can be included in the notification under this section is being strictly followed. As expressly contemplated in this section the application of the Act is limited in its working to a part only of a group of persons falling under a common tribal designation thus recognising the principle that the criterion for inclusion is not membership of the tribe but proved or reasonably certain association in crime. It is thus seen that the observance of the limitations of this section impose on officers recommending the application of the Act an obligation to scrutinise mostly closely the relationship and the communal history of each individual whom it is proposed to include in the notification with a view to have them registered under the Act and then to require them to notify their changes of residences and next to impose further restrictions regarding periodical reporting etc.

In Mysore only the following Tribes have been brought within the purview of this Act viz., (1) Korachars (2) Woddars (3) Kepmaries

(4) Gantichors and (5) only a very few of the Handijogis. Of the five tribes the first four are of historic notoriety for the systematic commission of non-bailable offences. Long experience has shown that punishment has no great terror for them and that the preventive measures possible under the provisions of the Criminal Procedure Code are of no avail in the way of weaning them from crime. The necessity for a more active policy in the case of these Criminal Tribe members was clearly established and such a necessity still exists. The introduction of C.T. Act, though in some quarters it may be considered a measure interfering with the rights of liberty of the members of Criminal Tribe as ordinary citizens, has been recongnised necessary in the interests of the community as a whole as these members are parasites on and enemies of society. It is therefore that this Specail Law is introduced with a view to the declaration, registration, surveillance and control of the members of the Criminal Tribes.

In practically working out the provisions of the Criminal Tribes Act, the points for consideration in recommending the declaration of a tribe or class or gang or part thereof are:-

1. The economic conditions of the tribe or class or gang and the avocation pursued by them to adequately maintain themselves,

2. The number of convictions of individual members comprising the Tribe, Class or Gang,

3. The joint convictions that the members have with others of the same Tribe or Class or with those of a tribe or class with proved to be or reasonably suspected to own the criminal propensities.

4. The relationship between the members of the tribe in Mysore and those inhabiting different localities within or without the State affording facilities in the joint commission of or active participation in crime due to family relationship or tribal affinity.

It is only when a considerable number of the members of a tribe or class have a large number of convictions - individual and joint - that the tribe or class in any locality is recommended to Government for declaration under the Act. Otherwise the declaration

under the Act is limited only to such of the members of the tribes as reside in a particular place or area. The statistics of convictions of many of the members brought under the Act show that their depradations are confined not merely to Mysore but extend beyond its limits to many distant parts of British India as could be seen specially in the case of Kepmaris.

Declaration under the Act and Registration of the members of a tribe or class systematically addicted to crime enables the police to keep constant watch over them with a view to prevent their committing offences both while in their usual abodes and when they move about. Nomadic as the members of the Criminal Tribes are generally inclined to be, they are usually without any fixed abode. Even though many of them have fixed abodes and generally some ostensible occupation, they proceed periodically on raids, often at great distance from their houses and live solely on their ill-gotten gains. Registration and entry in the Finger Print Bureau of the marks of their identification make it possible and easy to trace the identity of the members. This facility is not afforded by the ordinary provisions of Criminal Law.

In furtherance of the aims and purposes of the C.T. Act viz. prevention of the commission of offences by C.T. members and with a view to remove any unnecessary hardship to which some of them may be put to by the full use of the provisions thereof, Government have in their order No. P.369-77-Pol. 189-32-2 dated 21/25th July 1933 introduced the "Abeyance System". It is sought under this system to relax the restrictions on such of the members whose conduct has been satisfactory and the C.T. members are made to realise and feel confident that by their good conduct they could earn suspension or cancellation of the restrictions imposed on them Under this system the endeavours is to reclaim the Criminal Tribe members by weaning them out of criminal pursuits.

Members of a tribe declared under the Act are, before their registration, afforded opportunity to appear before the Magistrate

empowered to register them and to show sufficient cause why they should not be brought in the register. Such of the members as feel aggrieved by the decision of the Magistrate have always got a right of appeal to the District Magistrate. It is thus seen that the procedure adopted in registration is more or less judicial in its nature. The necessity therefore to make the order of the Magistrate appealable to the Sessions Court as urged in the Memorandum does not appear necessary.

With regard to the point raised in the Memorandum that sections 11, 12, 13 and 19 of the Madras C.T. Act or the corresponding provisions of the Mysore C.T. Act may be modified so as not to compel removal of criminals from their own Province to another, it may be stated that Sec. 12 of the Mysore C.T. Act is not enforced and there are no settlements in Mysore. And as for the point in 2(h) under Heading "operation" regarding the authority to issue passes, if the object of the issue of passes is properly and clearly understood it is obvious that only persons who have a good knowledge of the criminals activities of tribes in general can only work the pass system effectively. Even the reporting of criminals to the village Magistrates in the Madras Presidency was found to be not satisfactory as could be seen from the reports published in Crime and Occurrence Sheets of Salem District.

The other points raised in the Memorandum do not call for any special remarks.

From the information available in the Finger Print Bureau where the Finger Print Slips of the registered members of Criminal Tribes are recorded and from the C.I.D. records it is seen that out of a total population of nearly 34,000 persons belonging to the five Tribes in the State only 876 members are registered and as many as 493 or more than 55% of them have got convictions for property offences the number of convictions of several of them going up to a dozen or more each. Further there has been up till now in Mysore no instance where a sentence of transportation for life is awarded

under Section 24 of the C.T. Act. The Section is, indeed, in Mysore a dead letter though the fact that enhanced punishment can be awarded thereunder is a useful check on persons bred up to and educated for a life of crime. It is obvious therefore that under the present conditions of the working of the New C.T. Rules and the Abeyance System, it is neither necessary nor desirable in the interests of Society to repeal the C.T. Act or to effect the amendments suggested in the Memorandum.

INSPECTOR GENERAL OF POLICE IN MYSORE.

No. P 5696/Secl
& 27.4.39

To Lpb 23-38-4

The Secretary,
The Provincial Criminal
Tribes Association, Nellore

Sir,

Repeal of the Criminal Tribes Act.

With reference to the Memorandum on the above subject presented to the Dewan on behalf of the Provincial Criminal Tribes Association, Nellore, in December 1938, I am directed to forward herewith a note explaining the position of the criminal tribes in Mysore.

I have etc.,

MMS 1914

Chief Secretary to Govt.

Lp 18.4